

CHAPTER 2
ADMINISTRATIVE PROCEDURE
[Prior to 6/15/88, see Real Estate Commission[700] Ch 2]

193E—2.1(543B) Mission of the commission. The mission of the Iowa real estate commission is to protect the public through the examination, licensing, and regulation of real estate brokers, salespersons, and firms pursuant to Iowa Code chapter 543B, “Real Estate Brokers and Salespersons”; to administer Iowa Code chapter 543C, “Sales of Subdivided Land Outside of Iowa”; and to administer Iowa Code chapter 557A, “Iowa Time-Share Act.”

Out-of-state subdivided land developers file plats, records, and other legal documents with the board pursuant to Iowa Code chapter 543C. The commission refers the filings to the attorney general’s office for review. When the attorney general’s office reports to the commission the filed information is complete, the commission will accept the filing and filing fee. If accepted, the subdivider may then advertise and sell the registered property in the state of Iowa. The commission refers complaints filed by the public concerning sale in Iowa of unregistered subdivided land to the consumer protection division of the attorney general’s office for investigation, enforcement and prosecution, if necessary.

The commission is a policy-making body with authority to promulgate rules for the regulation of the real estate industry consistent with all applicable statutes. Rules promulgated by the commission are published under agency number 193E—Iowa Administrative Code. Administrative support services are furnished by the professional licensing and regulation division of the department of commerce and by the office of administrative services of the department of commerce. The administrator of the professional licensing and regulation division appoints and supervises an executive secretary and staff to carry out the duties assigned by the commission. Disciplinary hearings are held under the guidance of a hearing officer assigned by the department of inspections and appeals. The commission or duly authorized representative may inspect subdivided land outside of Iowa pursuant to Iowa Code section 543C.4.

2.1(1) Office and communications. Correspondence and communications with the commission shall be addressed or directed to the commission office at 1918 S.E. Hulsizer, Ankeny, Iowa 50021. The telephone number is (515)281-3183.

2.1(2) Meetings of the commission. Meetings of the commission shall be held at times scheduled by the commission in the offices of the commission or a place designated by the commission. Special meetings may be called by the chairperson or executive secretary of the commission, who shall set the time and place of the meeting.

2.1(3) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the department of commerce or the professional licensing and regulation division, the commission is the principal custodian of its own agency orders, statements of law or policy issued by the commission, legal documents, and other public documents on file with the commission.

Any person may examine public records promulgated or maintained by the commission at its office during regular business hours. The office is open from 8 a.m. until 4:30 p.m. Monday through Friday. The office is closed Saturdays, Sundays, and official state holidays.

2.1(4) Deadlines. Unless the context requires otherwise, any deadline for filing a document shall be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

2.1(5) *Sales of goods or services.* No commissioner or employee shall sell, either directly or indirectly, any goods or services to a licensee or education provider except under the following conditions:

a. The real estate commission, on a roll call vote, must give its consent. The individual who wishes to sell goods or services must not participate in the giving of the consent.

b. The selling of the goods or service by the individual must not affect the individual's responsibilities to the commission.

c. Approved authorizations are necessary to screen out potential conflicts of interest that could unduly influence decisions based upon providing such services.

d. An individual who sells goods or services to licensees or education providers cannot include, as a part of the exchange, the requirement that the individual serve as an advocate for them to the commission.

2.1(6) *Authorization process.* Requests for authorization shall be in writing and signed by the commissioner or employee requesting consent and shall include a description or list of the goods or services to be supplied, a supportive narrative comment as to the rationale for doing business with the party and an explanation of why the sale will not create a conflict of interest or provide financial gain by virtue of one's position on the commission or within the agency. Requests must be made a minimum of two weeks prior to the commission meeting.

2.1(7) *Instructor compensation.* A commissioner or employee may receive compensation for services as an instructor to teach prelicense and continuing education courses if prior approval is granted pursuant to subrules 2.1(5) and 2.1(6).

193E—2.2(543B) Definitions. For the purpose of these rules, the following definitions shall apply:

"Additional license" means any officer or partner license(s) issued based upon and dependent or contingent upon the primary or main officer or partner license, but assigned to a different corporation or partnership.

"Applicant" means a person who has applied for or intends to apply for a real estate salesperson or real estate broker license.

"Application form" means the form furnished by the commission to be completed and submitted to apply for an original license as a real estate salesperson, real estate broker, real estate firm or trade name.

"Branch office license" means the same as "duplicate license" as used in Iowa Code section 543B.31.

"Broker associate" is defined in Iowa Code section 543B.5(1).

"Broker-in-charge" means a broker or broker associate designated as the person responsible for supervision of a main office or branch office.

"Commission" means the real estate commission.

"Completed application" means an original or renewal application with all required information, documents, signatures, fees or penalties and timely received.

"Duplicate" or "replacement" license is a license reissued for the remainder of a license term, at the written request of the broker to replace a lost or destroyed license.

"Examination" means a licensure examination required before issuance of a license.

"Examinee" means a person who has registered or intends to register to take a licensure examination.

"Filed" means documents or application and fees are considered filed with the commission on the date postmarked, not metered, or the date personally delivered to the commission office.

“*Original license*” means the license that covers the first term of licensure in Iowa as a salesperson, broker, or firm. A license applied for and reissued after the final deadline for renewal of a license is also an original license.

“*Primary*” or “*main*” license means the original license issued based upon examination, including any subsequent renewals or reinstatement of the license. Continuing education is required to renew to active status.

“*Principal broker*” means a broker who is either a real estate proprietor, a partner in a real estate partnership, or an officer in a real estate corporation.

“*Proprietor*” means an individual broker who privately owns and manages a real estate company.

“*Renewal application form*” means the form furnished by the commission to be completed and submitted to apply for renewal of a license as a real estate salesperson, real estate broker, real estate firm, branch office or trade name.

“*Status*” means the condition of a real estate license. A license may be active, inactive, expired, suspended, revoked or canceled. An inactive license is defined in Iowa Code section 543B.5(3).

“*Timely received*” means postmarked, not metered, not later than midnight on the last date of the deadline specified by Iowa Code or commission rules.

“*Type*” means the category to which a broker license or firm license is issued. A broker license may be issued as a proprietor, officer, partner, or broker associate. A firm license may be issued as a corporation, partnership or association.

193E—2.3(543B) Licensees of other jurisdictions. A person licensed by examination as a real estate salesperson or broker in a state which does not have a reciprocity agreement with Iowa may be issued a comparable Iowa license by passing the Iowa portion of the examination under the following circumstances:

Broker: Has been actively licensed as a broker and the license has not been inactive or expired for more than six months immediately preceding the date of the successful examination.

Salesperson: Has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of the successful examination.

2.3(1) The commission may enter into specific reciprocity agreements with individual states and grant an Iowa license to licensees from those states on the same basis as Iowa licensees are granted licenses by those states. An Iowa licensee wishing to obtain a license in any other state should contact that state’s licensing board for information and applications. Addresses and telephone numbers are available from the commission.

2.3(2) Each applicant under rule 2.3(543B) or under a reciprocity agreement must apply on forms provided by the commission. The application shall include but not be limited to a certification of license from the state of original licensure containing all information as required by Iowa Code section 543B.21 and an affidavit certifying that the applicant has reviewed and is familiar with and will be bound by the Iowa real estate license law and the rules of the commission.

a. Nonresident applicants must comply with Iowa Code section 543B.22.

b. The application for a nonresident license must be accompanied by an executed irrevocable written consent to suits at law or in equity as provided in Iowa Code section 543B.23.

c. If the applicant is a broker associate or salesperson of a nonresident broker, the employing broker must have an Iowa broker license.

d. If the applicant is employed by or otherwise associated with a nonresident real estate partnership, association, or corporation, that partnership, association, or corporation must apply for and qualify for an Iowa license. No partnership or corporation shall be granted an Iowa license unless at least one member or officer of each partnership, association, or corporation applies for and is granted an Iowa broker license. Every member or officer of the partnership, association, or corporation and every employee who acts as a real estate broker or salesperson in Iowa must apply for and be granted an Iowa license.

2.3(3) If a nonresident Iowa licensee has a real estate license suspended or revoked by any other state, it will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the commission of adverse action taken by another state shall be cause for disciplinary action.

2.3(4) Reapplying for a former license issued by examination, as a nonresident licensee. A license that is not renewed by midnight, December 31, of the year of its expiration may be reinstated by the following:

a. Within 30 days after expiration by filing a complete renewal application, payment of the regular renewal fee plus appropriate reinstatement fee.

b. After 30 days, but within three years of expiration by filing a complete application, payment of the regular license fee plus appropriate reinstatement fee.

(1) Individuals shall have the option of passing the examination and payment of the regular fee with a filed complete application.

(2) Individuals may qualify under this rule to retake only the state portion of the examination and shall be required to retake after December 31 of the third year after expiration.

2.3(5) Reapplying for a reciprocity license as nonresident. A license that is not renewed by midnight, December 31, of the year of its expiration may be reinstated by the following:

a. Within 30 days after expiration by filing a complete renewal application, payment of the regular renewal fee plus appropriate reinstatement fee.

b. After 30 days but within three years, individuals shall be required to qualify as an original reciprocity application plus payment of the appropriate reinstatement fee.

c. Individuals applying under this rule shall satisfy all licensing requirements of Iowa Code and commission rules to be issued an active license. This shall include but not be limited to compliance with the continuing education requirement.

193E—2.4(77GA, ch1081) Issuance or renewal of a license denial. The commission shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, chapter 1081. In addition to the procedures contained in those sections, this rule shall apply.

2.4(1) The notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

2.4(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be 60 days following service of the notice upon the licensee or applicant.

2.4(3) The commission's executive secretary is authorized to prepare and serve the notice required by 1998 Iowa Acts, chapter 1081, section 6, upon the licensee or applicant.

2.4(4) Licensees and applicants shall keep the commission informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the commission copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, chapter 1081, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

2.4(5) All commission fees required for application, license renewal, or license reinstatement must be paid by licensee or applicant, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the commission has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

2.4(6) In the event a licensee or applicant timely files a district court action following service of a commission notice pursuant to 1998 Iowa Acts, chapter 1081, sections 6 and 7, the commission shall continue with the intended action described in the notice until the commission's receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the commission shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

2.4(7) The commission shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the commission deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the commission's receipt of a withdrawal of the certificate of noncompliance.

193E—2.5 to 2.7 Reserved.

193E—2.8(557A) Time-share interval filing fees. Each initial filing made pursuant to Iowa Code sections 557A.11 and 557A.12 shall be accompanied by a basic filing fee of \$100 plus \$25 for every 100 time-share intervals or fraction thereof included in the offering. A registration fee shall be paid with the filing of an application for registration consolidating additional time-share intervals with a prior registration and shall be a fee of \$50 plus an additional fee of \$25 for every 100 time-share intervals or fraction thereof included in the offering. A fee shall not be charged for amendments to the property report as a result of amendments to the initial filing, unless the commission determines the amendments are made for the purpose of avoiding the payment of a fee, in which event the amendment may be treated as an application for registration consolidating additional time-share intervals with a prior registration.